

The United States District Court of Southern Ohio

FILED
JAMES BONINI
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Sam Campbell
Petitioner

vs

U.S. Government
Respondent

Docket NO: CR-1-01-32-06

§ Motion for Reduction of Sentence
due to Post-Conviction and Post-
Sentencing Rehabilitation

Now comes, Sam Campbell, defendant in the foregoing action, and hereby submits the following sentence memorandum in anticipation of issues likely to arise in future hearings.

I. Departure

Defendant will move for a downward departure from the applicable sentencing guidelines on the theory that he has taken a list of extraordinary steps towards rehabilitation while incarcerated since 2001. See U.S.-v-Booker 125 s.ct. 738, 2005 WL 50108 (Jan 12, 2005) Koon-v-U.S., 518 U.S. 81, 113 (1996).

In Booker the Supreme Court held that;...

"The sentencing guidelines were advisory only, not mandatory".

Also in Koon the Supreme Court said that;...

"It has been the uniform and constant in the federal judicial tradition for the sentencing judge to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and punishment to ensue".

18 U.S.C. § 3661 states ("No limitation shall be placed on the information" a court can receive and consider for purposes of imposing an appropriate sentence). A departure is warranted if the case is "unusual enough for it to fall outside the heartland of cases in the guidelines".

Even when the guidelines were mandatory, they did not "displace the traditional role of the district court in bringing compassion and common sense to the sentencing process...In areas where the Sentencing Commission has not spoken... district courts should not hesitate to use their discretion in devising sentences that provide individualized justice.

II. Brief Summary

In 2001, the defendant was convicted of Drug Trafficking and Possession in the State of Ohio and charged with a Federal Conspiracy to Distribute Cocaine/Cocaine Base, all overt acts of the same incident resulting in an 18 month sentence and a 69 month 15 day sentence running concurrent with each other.

In 2000, the defendant and his family had come upon hard times and he chose to make some quick money by selling drugs in order to help out but he became accustomed to making fast money which led to his subsequent arrests and convictions. The defendant knows that even though his intentions were good, his actions were wrong because while he was helping his family he was also hurting other families and breaking the law at the same time. He deeply regrets the shame and hurt that his actions have caused and has warred with himself over that pain often but has strived to change for the better. Thus, the work of rehabilitation started with getting back into good standing with his family first and then into the good graces of society as a whole later.

The defendant's incarceration has caused a lot of stress and strain on his parents, siblings, nieces and nephews, and has caused the dissolution of the relationship which he had prior to his incarceration due to the distance and locations he has been placed resulting in only one (1) visit during his entire incarceration. The defendant was at USP-Lee County in Virginia, FCI-Gilmer in West Virginia and now at FCI-Waseca in Minnesota which is fifteen hours away from Cincinnati, OH; but he has shown a willingness to rehabilitate himself by coming into the B.O.P. as a high security level and working his way down to a low security level and within a few months will reach camp status, which shows an extraordinary effort in itself.

In addition to the excellent behavior exhibited by the defendant the last few years, he's worked on furthering his educational and vocational skills by taking certain courses which would be beneficial towards him upon his release from prison. (see pg. 4)

The defendant wanted to note that the Honorable Judge Weber was barred by the sentencing guidelines from being lenient to him at the time of sentencing, but in U.S.-v-Booker 125 s.ct. 738, 2005 WL 50108 "The Supreme Court held that the guidelines are advisory only, not mandatory". So the defendant is asking the Honorable Judge for that leniency now after a few years, showing where the guidelines have come to help the defendant when they hindered him previously. (U.S.S.G. ch.1 Pt.A comment 4(b) states that a departure proper where conduct "atypical" and "significantly" differs from the norm of conduct covered by the guideline. Furthermore, the guidelines make clear that a court should consider every case, not only in rare circumstances, whether a departure is appropriate. Awareness of one's circumstances and the demonstrated willingness to act to achieve rehabilitation, thereby benefitting the individual and society, can remove a case from the heartland of typical cases, thus constituting a valid basis for departure. See § 3E1.1 Acceptance of Responsibility (Application notes 1(g) Post-Conviction Rehabilitative Efforts (e.g. counseling or drug treatment)).

Also in U.S.-v-Sally, 116 F3d 76, (3rd Cir. 1997) the court held that "As a baseline, downward departures based on extraordinary efforts are proper provided that the Sentencing Court makes factual findings demonstrating that the defendant has achieved real gains in rehabilitating himself and changing his behavior". Id. at 82

Also in U.S.-v-Williams, 65 F3d 301, 309-310 (2nd Cir 1995); the court states, "It's important, too, to realize that departures are an important part of the sentencing process because they offer the opportunity to ameliorate, at least in some aspects, the rigidity of the guidelines themselves. District judges, therefore, need not shrink from utilizing departures when the opportunity presents itself and when circumstances require such action to bring about a fair and reasonable sentence".

III. Rehabilitative Efforts

The defendant has been on the hard pressed line of gaining not only knowledge of the brain but also knowledge of the soul and spirit that is needed to fuel the brain. There are numerous programs that have evolved the defendant during his incarceration that are listed on pg. 4. Also the defendant has striven to change his negative thinking and behavior in the substance abuse area by attending and completing the forty hour Non-Residential Drug Program and he is currently enrolled in the 500 hour Residential Drug Abuse Program, even though he cannot receive the 12 month setence reduction for completing the class because of a previous conviction in 1993.

IV. Conclusion

In conclusion the defendant regrets the pain that he has caused his family and society and hopes that it will be seen that his efforts are earnest and sincere in trying to renew hisself since incarceration. The defendant strayed away from his good upbringing as he can never say he did not know better, but that good upbringing has given him a good foundation to return to.

The defendants "Extraordinary Rehabilitative Efforts" should be considered a relative subject, relative to the beginning point of a particular prisoners status and taking into account how he has pulled hisself up durring the period of time he has been in prison. In short, the defendant asserts that the Koon and Williams stand should assign considerable weight to the advances a particular prisoner makes while incarcerated, using as a baseline, his starting point, which in this case would be the date of his arrest.

Finally, the defendant is asking for the courts mercy, and to consider his "Extraordinary Rehabilitative Efforts" for a downward departure from his current setence of (69 months 15 days) to a setence of (63 months). In light, it is not much of a setence reduction, but a very pleasurable amount which would give the defendant a chance to get reintergrated back into society in a timely fashion.

It is submitted that the defendant, Samuel M. Campbell, presents an appropriate canidate for consideration for a downward departure based upon his substantial efforts at rehabilitation.

Respectfully Submitted,



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V. Programs/Rehabilitative EffortsRecreational

Movie Critics Class	2003	USP-Lee County
Multilevel Aerobics Class	2003	FCI-Gilmer
Chess Club	2005	FCI-Waseca

Educational

Certified Laubach Tutor	2002	(Madison Correctional Institution OH)
Heart Healthy Class	2003	USP-Lee County
Career Development Class	2003	USP-Lee County
Business Class	2003	FCI-Gilmer
Real Estate Class	2003	FCI-Gilmer
Spanish I Class	2004	FCI-Gilmer
Introduction to AC & refrigeration systems class (HVAC)	2004	FCI-Gilmer
Keyboarding Class	2005	FCI-Gilmer
Residential Contracting Class	2005	FCI-Gilmer
Commercial Drivers License Class	2005	FCI-Gilmer
Personal Finance	2005	(Currently Attending) FCI-Waseca
Word Processing	2005	(Currently Attending) FCI-Waseca
Real Estate II	2005	(Currently Attending) FCI-Waseca

Substance Abuse Classes

(40 hour) Non-Residential Drug Education Class	2004	FCI-Gilmer
(500 hour) Residential Drug Abuse Program RDAP (graduates on Jan. 10, 2006)	2005	FCI-Waseca
A.A. and N.A. (currently attending)	2005	FCI-Waseca

Vocational

Construction Class (Professional Career Development Institute PCDI)	2005
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Honorable Judge Weber;

My name is Samuel M. Campbell, I am currently incarcerated at FCI-Waseca In Minnesota for Conspiracy to Possess with intent to Distribute Cocaine/Cocaine Base. My case number is CR-1-01-32-06.

I am writing you to personally ask that you grant my motion for post conviction relief that I have recently filed with the Clerk of Courts.

At setencing, my family had written letters and also stood in the courtroom pleading for your leniency and you said that you had to strictly adhere to the guidelines when setencing me. Now, four years later with the Supreme Court ruling thatthe guidelines are only advisory, not manditory, you have the ability to show that leniency now.

I am only asking for six months and 15 days to be squashed, that would allow me to get out in late 2006 instead of early 2007. I know that selling drugs is wrong and I apologize for that. I ahve done almost 75 percent of my time and Judge Weber, I honestly want to get on with my life outside of prison. I want to do something productive with my time and myself and being incarcerated is not helping me with that, it is hindering me from accomplishing the dreams and goals that I have set for myself upon my release from prison.

As far as my time incarcerated, I have never had an incident report, I have had good work reports, I have been paying my fine, and I started my setence at a level seven USP and I am presently at a low level institution and by the end of the year I will be camp eligible. I have only had one visit from my parents my entire incarceration due to the extreme distances I have been from home and I miss my family a lot.

Also, I have taken the manditory drug class and I am currently taking the 500 hour Residential Drug Abuse Program. I was under the impression at setencing that I could get the year off for completing the class, but upon my entering the class I was notified that I could not receive the year off because of a previous conviction in 1993. Undetered, I still took the class so that I could actually help myself because my whole outlook on life has changed and drugs are not a part of that life.

I have another issies and it deals with the jail time credit that you gave me at setencing. It was a total of nine days, at first I had the days but when they moved me to FCI-Waseca, they took the days away from me and said that you knew you had no authority to give me jail credit. I do not know why they said this because if you had no authority then, you would not have been able to give me any time at all. So my outdate that was 02-04-2007 is now 02-13-2007 because of the days you had no authority giving me.

In closing, I ask again that when my motion comes before you, that you rule in my favor, and if you do then I am thanking you in advance and telling you that I will not disappoint you or my family. If you do deny my motion, then I thank you still for entertaining my request.

Respectfully Submitted,

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